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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/768,614	01/30/2004	Robert G. DeMoor	TI-35548	6753

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EXAMINER
LE, TUAN H

ART UNIT	PAPER NUMBER
2622	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

uspto@ti.com

Office Action Summary	Application No.	Applicant(s)	
	10/768,614	DEMOOR, ROBERT G.	
	Examiner	Art Unit	
	TUAN H. LE	2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 June 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3 and 8-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3,8-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1-3, 8-16 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-3, 8-9, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lavelle (US 6,362,851 to Lavelle et al) in view of Kinjo (US 2001/0024235).

Regarding **claim 1**, Lavelle discloses

a digital camera (Fig. 1) comprising:

a photosensitive region (CCD) for recording an optical image of a human subject (Lavelle, Fig. 1, Abstract);

a controllable shutter (inherent part) for exposing the photosensitive region (Lavelle, column 26, lines 31-35, wherein the shutter speed varies between 1/30 and 1/175 second) and for simulating an actual image acquisition without actually acquiring the image or exposing the photosensitive (Lavelle, Fig. 9b, column 8 lines 26-41, wherein a user can select ten seconds or twenty seconds for shutter

delay before an image is taken; also simulation of an actual image acquisition happens during shutter delay);

a timer (timer 290), the timer providing a selected time delay between an acquisition simulated optical image acquisition and an actual optical image acquisition, wherein the simulation simulates the actual image acquisition without actually acquiring the image (Lavelle, Fig. 9b, column 8 lines 26-41, wherein a user can select no delay, ten seconds, or twenty seconds for shutter delay before an image is taken; also simulation of the actual image acquisition happens during shutter delay).

However, Lavelle does not disclose

two or more acquisition simulated optical image acquisitions;

to get the attention of a subject being captured in the image and the actual image acquisition captures the image immediately following the simulation.

On the other hand, Kinjo discloses

two or more acquisition simulated optical image acquisitions (Kinjo, fig. 8A, paragraph [0200], wherein the countdown state of a timer show various counting for the timer);

to get the attention of a subject being captured in the image and the actual image acquisition captures the image immediately following the simulation (Kinjo, fig. 8A, paragraph [0200], wherein countdown state of a timer attracts photographed subject's attentions and a desired image is captured).

Therefore, it would have been obvious to a person of ordinary skills in the art to implement the two or more acquisition simulated optical image acquisitions,

the getting attention, and the actual image acquisition by Kinjo into the camera by Lavelle so as to include two or more acquisition simulated optical image acquisitions, to get the attention of a subject being captured in the image and the actual image acquisition captures the image immediately following the simulation because such implementation gets attention of a photographed object, thus yielding a desired image (Kinjo, paragraph [0200]).

Regarding **claim 2**, Lavelle and Kinjo disclose aforementioned limitations of the parent claim. Additionally, Lavelle discloses

simulated image acquisition is accompanied by sounds of typical shutter operation (Lavelle, it is inherent that sounds are generated during shutter operation).

Regarding **claim 3**, Lavelle and Kinjo disclose aforementioned limitations of the parent claim. Additionally, Lavelle discloses

a flash mechanism, the flash mechanism receiving low-power activation during the simulated image acquisition (Lavelle, column 8 lines18-25, wherein the flash is in automatic flash).

Regarding **claim 8**, Lavelle discloses a method of acquiring an image of a human subject with a digital camera having predetermined features, the method comprising:

instructing a digital camera to acquire an image of the subject (Lavelle, fig. 8C, column 8 lines 26-41, wherein shutter button 250 is pressed);

simulating for the subject the acquisition of an image of the subject by digital camera (Fig. 1) wherein the simulation only simulates the acquisition of an

image without actually acquiring the image (Lavelle, Fig. 9b, column 8 lines 26-41, wherein a user can select ten seconds or twenty seconds for shutter delay before an image is taken; also simulation of image acquisition happens during shutter delay).

after a preselected period of time, as a result of said instruction and after said simulation, acquiring an image of the subject by the digital camera (Lavelle, Fig. 9b, column 8 lines 26-41, wherein a user can select ten seconds or twenty seconds for shutter delay after that an image is taken).

However, Lavelle does not disclose

the simulation simulates the actual image acquisition without actually acquiring the image to get the attention of the subject and the actual image acquisition captures the image immediately following the simulation.

On the other hand, Kinjo discloses

the simulation simulates the actual image acquisition without actually acquiring the image to get the attention of the subject and the actual image acquisition captures the image immediately following the simulation (Kinjo, fig. 8A, paragraph [0200], wherein countdown state of a timer attracts photographed subject's attentions and a desired image is captured).

Therefore, it would have been obvious to a person of ordinary skills in the art to implement the simulation and the actual image acquisition by Kinjo into the camera by Lavelle such that the simulation simulates the actual image acquisition without actually acquiring the image to get the attention of the subject and the actual image acquisition captures the image immediately following the

simulation because such implementation gets attention of a photographed object, thus yielding a desired image (Kinjo, paragraph [0200]).

Regarding **claim 9**, Lavelle and Kinjo disclose aforementioned limitations of the parent claim. Additionally, Lavelle discloses

simulating the acquisition of an image of the subject includes providing the sights and sounds associated with the acquisition of an image of the subject by the digital camera (Lavelle, Fig. 9b, column 8 lines 26-41, wherein the led 390 blinks and the beeper sounds once per second for the final five seconds.)

Regarding **claim 13**, Lavelle and Kinjo disclose all of the limitations of the parent claim. Additionally, Lavelle discloses

a first mode of operation (no shutter delay), the digital camera in the first mode acquiring an image of the subject in response to user input in the first mode of operation (Lavelle, Fig. 9b, column 8 lines 26-41, wherein a user can select no delay for shutter delay before an image is taken); and

a second mode of operation (10 or 20 seconds for shutter delay), the digital camera simulating acquiring an image of the subject in response to user input in the second mode of operation, the digital camera acquiring an image at a pre-selected time after simulating acquiring image (Lavelle, Fig. 9b, column 8 lines 26-41, wherein a user can select ten seconds or twenty seconds for shutter delay before an image is taken; also simulation of optical image acquisition happens during shutter delay).

Regarding **claim 14**, Lavelle and Kinjo disclose all of the limitations of the parent claim. Additionally, Lavelle discloses

a first mode of operation (no shutter delay), the digital camera acquiring an image of the subject in response to user input in the first mode of operation (Lavelle, Fig. 9b, column 8 lines 26-41, wherein a user can select no delay for shutter delay before an image is taken); and

a second mode of operation (10 or 20 seconds for shutter delay), the digital camera selecting for acquisition an image of the subject having predetermined features (Lavelle, Fig. 9b, column 8 lines 26-41, wherein a user can select ten seconds or twenty seconds for shutter delay before an image with predetermined features is taken).

Claims 10-12 and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lavelle (US 6,362,851 to Lavelle et al) in view of Kinjo (US 2001/0024235) in view of Chatani et al (U.S. Pub. 2004/0075743 A1).

Regarding **claim 10**, Lavelle and Kinjo disclose aforementioned limitations of the parent claims.

However, Lavelle and Kinjo does not disclose

providing a program associated with a processing unit for identifying the predetermined features;

acquiring a series of images and applying the images to the processing unit; and

analyzing the images using the program.

On the other hand, Chatani et al discloses

providing a program associated with a processing unit (306) for identifying the predetermined features (see Chatani et al, Fig. 3, paragraph [0012], wherein a computer program obtains image selection parameters);

acquiring a series of images and applying the images to the processing unit (see Chatani et al, paragraph [0011], wherein the imaging device is capable of capturing image data for a plurality of digital images); and

analyzing the images using the program, (see Chatani et al, Fig. 8 step 808, wherein subset of images with specified parameters is generated).

Therefore, it would have been obvious to an artisan to combine image analysis by using the program as disclosed by Chatani et al with the method as disclosed by Lavelle and Kinjo in order to analyze a series of images because such combination provides automatic selection of digital photographs based on user provided criteria and allows user to preview images under various conditions, (Chatani et al, paragraph [0009]).

As for **claim 11**, as previously mentioned in the discussion of claim 10, Lavelle, Kinjo, and Chatani et al disclose all of the limitations of the parent claim. In addition, Chatani et al discloses

an acquired image, in which the predetermined feature is identified, is stored, (see Chatani et al, Fig. 4, wherein image in the buffer 410 is stored in memory 412).

As for **claim 12**, as previously mentioned in the discussion of claim 10, Lavelle, Kinjo, and Chatanie et al disclose all of the limitations of the parent claim. In addition, Chatani et al discloses

the acquiring of a series images is provided in response to signals from a timing unit (see Chatanie et al, paragraphs [0007] and [0011], wherein multiple images are capture in high rate photography).

Regarding **claim 15**, Lavelle and Kinjo disclose all of the limitations of the parent claim. However, Lavelle and Kinjo do not disclose

the predetermined features are determined by a pattern recognition program

On the other hand, Chatanie discloses

the predetermined features are determined by a pattern recognition program (see Chatanie et al, paragraphs [0011] and [0012], wherein image selection parameters are entered).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine image capture with specified parameter as described by Chatanie et al with the digital camera as described by Lavelle and Kinjo in order to selectively store desired images because such combination saves time to search through a whole image database for a certain image.

Regarding **claim 16**, Lavelle and Kinjo disclose all of the limitations of the parent claim. However, Lavelle and Kinjo does not disclose

the predetermined features are facial expression.

On the other hand, Chatanie discloses

the predetermined features are facial expression (see Chatani et al, paragraph [0053], wherein semantic parameters include closed eyes, crossed eye)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine image capture with semantic parameters as described by Chatanie et al with the digital camera as described by Lavelle and Kinjo in order to selectively store desired images because such combination saves time to search through a whole image database for a certain image.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TUAN H. LE whose telephone number is (571)270-1130. The examiner can normally be reached on M-Th 7:30-5:00 F 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on (571) 272-3022. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tuan H Le/
Examiner, Art Unit 2622
/Jason Chan/
Supervisory Patent Examiner, Art Unit 2622